

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Kenneth Williams,

Plaintiff

v.

Clark County, *et al.*,

Defendants

Case No.: 2:22-cv-00045-CDS-EJY

Order Adopting Report and
Recommendation of the Magistrate Judge

[ECF No. 15]

This is a civil rights action brought by pro se plaintiff Kenneth Williams. On January 11, 2022, United States Magistrate Judge Elayna J. Youchah issued an order denying plaintiff's application to proceed *in forma pauperis* (IFP) and dismissing the complaint without prejudice with leave to amend. ECF No. 3. Williams' first amended complaint was timely filed. ECF No. 6. Following screening, the magistrate judge recommended that some claims asserted by Williams be dismissed with prejudice, and other claims be dismissed with leave to amend. R&R, ECF No. 12. The R&R further recommended that Williams have until July 15, 2022, to file a second amended complaint setting forth a claim upon which relief may be granted, noting that failing to file a second amended complaint would result in a recommendation for dismissal. *Id.* at 9. Williams did not take any action. It is possible that he did not receive a copy of the R&R because, even though Williams updated his address with the Clerk of Court (ECF No. 11), his mail was again returned undeliverable. *See* ECF No. 14. However, failure to maintain his address is a violation of Local Rule IA 3-1, which requires that a pro se party file with the court written notification of any change of mailing address, email address, or telephone number. LR IA 3-1. Failure to comply may result in the dismissal of the action, entry of default judgment, or other sanctions as deemed appropriate by the court. *Id.*

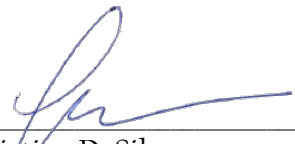
On December 23, 2022, the magistrate judge issued a third report and recommendation that I dismiss this action for failing to comply with the court's prior order. ECF No. 15. The R&R recommended dismissal for plaintiff's failure to file a second amended complaint. *Id.* Under the local rules, Williams had fourteen days to file any objections to the R&R. Local Rule IB 3-2(a) (stating that a party who objects to a report and recommendation from a magistrate judge must file a written objection supported by points and authorities within fourteen days of being served with the report and recommendation). Any objections to Magistrate Judge Youchah's R&R were thus due fourteen days after December 23, 2022, *i.e.*, January 6, 2023. *Id.* at 2. As of the date of this order, plaintiff has failed to file a second amended complaint or to file objections to the third R&R.

"[N]o review is required of a magistrate judge's report and recommendation unless objections are filed." *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003); *see also Thomas v. Arn*, 474 U.S. 140, 150 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While *de novo* review is not required because Williams failed to file objections, I nevertheless conducted a *de novo* review of the issues set forth in the report and recommendation. 28 U.S.C. § 636(b)(1). When reviewing the order of a magistrate judge, the order should only be set aside if the order is clearly erroneous or contrary to law. Fed. R. Civ. P. 72(a); LR IB 3-1(a); 28 U.S.C. § 636(b)(1)(A); *Laxalt v. McClatchy*, 602 F. Supp. 214, 216 (D. Nev. 1985). A magistrate judge's order is "clearly erroneous" if the court has "a definite and firm conviction that a mistake has been committed." *United States v. U.S. Gypsum Co.*, 333 U.S. 364, 395 (1948); *Burdick v. Comm'r IRS*, 979 F.2d 1369, 1370 (9th Cir. 1992). "An order is contrary to law when it fails to apply or misapplies relevant statutes, case law or rules of procedure." *UnitedHealth Grp., Inc. v. United Healthcare, Inc.*, 2014 WL 4635882, at *1 (D. Nev. Sept. 16, 2014). A review of the docket shows that Williams failed to file a second amended complaint on or before the July 15, 2022, deadline. Accordingly, I find that Magistrate Judge Youchah's R&R was not clearly erroneous or contrary to the law and adopt it in its entirety.

1 IT IS THEREFORE ORDERED that the Magistrate Judge's Report and
2 Recommendation [ECF No. 15] is ADOPTED in its entirety.

3 IT IS FURTHER ORDERED that this action is dismissed with prejudice and the Clerk
4 of Court is directed to close the case.

5 DATED: January 19, 2023

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8 Cristina D. Silva
9 United States District Judge
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